

EXHIBIT C

Transcript of Howard Myatt
Conducted on March 28, 2018

1 (1 to 4)

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF VIRGINIA
3 ALEXANDRIA DIVISION

4 ~~~~~x
5 UNITED STATES EQUAL :
6 EMPLOYMENT OPPORTUNITY :
7 COMMISSION, : Civil Action No.
8 Plaintiff, : 1:17-cv-1084
9 v. : (AJT/JFA)

10 CAMBER CORPORATION,
11 Defendant.

12 ~~~~~x
13
14 Deposition of HOWARD MYATT
15 McLean, Virginia

16 Wednesday, March 28, 2018
17 9:25 a.m.

18
19
20 Job No.: 179323

21 Pages: 1 - 117

22 Reported By: Janice Jones, RPR, CLR

1 APPEARANCES

2 ON BEHALF OF PLAINTIFF:
3 ROBERT STERN, ESQUIRE
4 EQUAL EMPLOYMENT OPPORTUNITY
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9

10 ON BEHALF OF DEFENDANT:

11 ROBERT ORTBALS, JR., ESQUIRE
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1 APPEARANCES CONTINUED

2 ON BEHALF OF EXECUTIVE OFFICE FOR IMMIGRATION REVIEW:
3 MARIA N. COLEMAN, ESQUIRE
4 OFFICE OF THE GENERAL COUNSEL
5 EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
6 ASSOCIATE GENERAL COUNSEL
7 EMPLOYEE AND LABOR RELATIONS UNIT
8 5107 Leesburg Pike
9 Falls Church, Virginia 22041
10 703.756.8426
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11
12
13 Deposition of HOWARD MYATT, held at the offices of:

14 Planet Depos - Tysons Corner
15 8720 Greensboro Drive
16 Suite 110
17 McLean, Virginia 22102
18 888.433.3767

19 Pursuant to notice, before Janice Jones, RPR, CLR,
20 Notary Public in and for the Commonwealth of Virginia.

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2 (5 to 8)

INDEX		Page	5	7
EXHIBITS		Page		
3 By Mr. Stern	Subpoena to Produce Documents Information, or Objects or to Permit Inspection of Premises in A Civil Action	6	1 address you just recited?	
4 By Mr. Ortbalis		118	2 A Correct.	
			3 Q With respect to Camber Corporation, the	
			4 defendant in this case, what position do you have?	
			5 A I was the contracting officer	
			6 representative for that contract, and I am the	
			7 applications development chief for OIT.	
			8 Q That is sometimes called or referred to as	
			9 COTR, C-O-T-R?	
			10 A It used to be. They changed the name a few	
			11 years back.	
			12 Q What is the acronym now?	
			13 A Contracting officer representative. They	
			14 just got rid of the "technical."	
			15 Q Did you have any role on that contract	
			16 under a predecessor company?	
			17 A Camber bought out Avaya and inherited	
			18 Avaya's contract and contract team.	
			19 Q You were COTR for the contract when it was	
			20 under Avaya, too?	
			21 A Correct.	
			22 Q When did you start being the COTR on the	
		6		8
	PROCEEDINGS			
	THEREUPON,			
	HOWARD MYATT,			
	called as a witness on behalf of the Plaintiff and,			
	after first having been duly sworn or affirmed, was			
	examined and testified as follows:			
	7 (Thereupon, Deposition Myatt Exhibit			
	8 Numbers 1 through 7 were marked for identification.)			
	DIRECT EXAMINATION			
	10 BY MR. STERN:			
	11 Q Good morning. Could you please state your			
	12 name and business address for the record?			
	13 A Howard Myatt, and business address would be			
	14 5170 (sic), Leesburg Pike, Falls Church, Virginia.			
	15 Q I'm Jeffrey Stern. I'm the attorney for			
	16 plaintiff, EEOC, in this case.			
	17 You are working for what employer? Who is			
	18 your employer?			
	19 A I work for the Office of Information			
	20 Technology for the Executive Office of Immigration			
	21 Review -- for Immigration Review, sorry.			
	22 Q And your workstation was the business			

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4 (13 to 16)

	13		15
1	talk about the content of Exhibit 4 to your deposition.	1	A Program manager, yes.
2	A Okay, sir.	2	Q Program manager for the contractor, was
3	Q You have seen all of the documents	3	there any designated alternate program manager?
4	collected in Exhibit 4 to your deposition before	4	A No.
5	looking at them today?	5	Q Directing your attention to the top page of
6	A Yes, sir.	6	Exhibit 4 to your deposition --
7	Q Is Exhibit 4 to your deposition the	7	A (Indicating.)
8	collection of documents responsive to the Items 1, 2, 3	8	Q -- that is the first responsive DCIO that
9	at the bottom of Page 1 of Exhibit 2 to your	9	you collected, responsive to the subpoena?
10	deposition, the collection of DCIOs?	10	A Yeah.
11	A Yes, sir, I believe they are.	11	Q All right. And it's an e-mail from Khalil
12	Q The collection of DCIOs in Exhibit 4 to	12	to you and others?
13	your deposition, was received by you from Atif?	13	A Correct.
14	A Atif.	14	Q And the subject says, "Weekly Program
15	Q Atif Khalil?	15	Review Meeting (09/09/14).
16	A Atif Khalil, yes.	16	What was a "Weekly Program Review Meeting"
17	Q Who was Atif Khalil with regard to the	17	on this project?
18	Camber and Avaya project?	18	A That would be myself, the alternate COR
19	A Atif was the program manager employed by	19	Dave Fruehwald, the at the time Deputy CIO for software
20	Camber, so he would be the highest ranking Camber/Avaya	20	development, Kate Ahn, and Atif getting together for
21	employee on premise.	21	about a half an hour to discuss anything relevant to
22	Q Was he the program manager during the whole	22	the project and what its potential impacts might be.
	14		16
1	period, Avaya through the end of the Camber contract?	1	Q Were these meetings on a fixed day every
2	A No. There were several predecessors prior	2	week or vary from day to day?
3	to Atif. One of them's first name was Robin. I cannot	3	A Typically, we held them Tuesday afternoons.
4	remember his last name. Prior to that, they had	4	It tended to move around to accommodate Kate's
5	another program manager in there. But that was before	5	schedule.
6	I took over as COR.	6	Q You mentioned Kate as Deputy CIO or what is
7	Q That would be before 2011?	7	CIO?
8	A Yes.	8	A Deputy chief information officer.
9	Q The entire time that you were COR on this	9	Q Again, returning to the top page of
10	project of -- during Avaya and Camber, was there any	10	Exhibit 4, the first e-mail, it says, "Date, Tuesday,
11	other PM than Mr. Khalil?	11	September 9th."
12	A For the first six or seven months that I	12	So Tuesday was the routine day for --
13	was there, Robin was the PM, and then Avaya replaced	13	A At that point in time. Now we hold them on
14	him.	14	Wednesdays.
15	Q You had mentioned that there was an	15	Q All right. The timestamp says, "1:13 p.m."
16	alternate COTR or COR for you designated in the	16	on that day?
17	Statement of Work?	17	A Yes, sir.
18	A It would actually be designated in the	18	Q That was sent and received by you before
19	contracting document.	19	that day's meeting. Is that correct?
20	Q Designated in the contracting document.	20	A That's correct.
21	During Mr. Khalil's tenure as the PM -- is	21	Q So the meeting would have been after 1:13
22	that a proper reference?	22	p.m.?

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5 (17 to 20)

<p>1 A Typically, we held them about 3:00 p.m.</p> <p>2 Q There are three attachments listed on</p> <p>3 the --</p> <p>4 A Yes, sir.</p> <p>5 Q -- e-mail on Page 1 to Exhibit 4. One is</p> <p>6 an IT budget. It says, "FY," fiscal year 2014?</p> <p>7 A Correct.</p> <p>8 Q Then the next one says, "v20."</p> <p>9 What is the "v"?</p> <p>10 A That was, I believe, the organization chart</p> <p>11 for the contractor.</p> <p>12 Q Directing your attention to the three</p> <p>13 attachments listed on that page, the one I am</p> <p>14 discussing, it says, "xls."</p> <p>15 That is the spreadsheet?</p> <p>16 A Yes, that would be the budget spreadsheet.</p> <p>17 Q The bottom item says, "DOJ EOIR org."</p> <p>18 Do you understand when I say, EOIR org, "I</p> <p>19 mean E-O-I-R?</p> <p>20 A EOIR, just like the character.</p> <p>21 Q From the book?</p> <p>22 A Yes.</p>	<p style="text-align: right;">17</p> <p>1 Q Same thing for the next item that is "Org</p> <p>2 Chart Version 18"?</p> <p>3 A Yes.</p> <p>4 Q That is referencing those attachments?</p> <p>5 A That referencing the two other attachments,</p> <p>6 yes, sir.</p> <p>7 Q Then the "Staffing" topic is populated by a</p> <p>8 number of filled-in bullet points. Yes?</p> <p>9 A Yes, sir.</p> <p>10 Q This is the first instance of a DCIO that</p> <p>11 you found that mentioned Ashok Pai?</p> <p>12 A Yes, it is.</p> <p>13 Q Who was Ashok Pai?</p> <p>14 A He was a DotNetSharePoint developer</p> <p>15 employed by Camber on this contract.</p> <p>16 Q What does that mean?</p> <p>17 What is the DotNetSharePoint? What are</p> <p>18 those things?</p> <p>19 A SharePoint is a document management and</p> <p>20 content management platform that is marketed by</p> <p>21 Microsoft. EOIR uses this as one of its application</p> <p>22 platforms.</p>
<p>1 Q Understand. "EOIR ORG STRUCTURE, FY 18."</p> <p>2 A That would be the org chart. That would be</p> <p>3 a Vizio diagram.</p> <p>4 Q A graphic?</p> <p>5 A Yes.</p> <p>6 Q And the middle one, what is that?</p> <p>7 A The one that begins with "DCIO-PM" would be</p> <p>8 the agenda for the meeting. That would be the items</p> <p>9 that Atif planned to make us aware of.</p> <p>10 Q Then the second page of this exhibit --</p> <p>11 A (Indicating.)</p> <p>12 Q -- that was the PM for 09/09/14 DCIO that</p> <p>13 you have just referenced?</p> <p>14 A Yes, sir.</p> <p>15 Q There were a variety of topics that were</p> <p>16 listed with little circles, and then bullet points</p> <p>17 underneath various ones.</p> <p>18 A Yes.</p> <p>19 Q The first one says, "FY Budget ver 20."</p> <p>20 Is that version 20, the first bullet item</p> <p>21 under administration?</p> <p>22 A Yes.</p>	<p style="text-align: right;">18</p> <p>1 Q DotNet is a software development framework</p> <p>2 also marketed by Microsoft. We use that for building</p> <p>3 custom applications.</p> <p>4 Q Was the description you just gave regarding</p> <p>5 Ashok Pai's position, was that true during your entire</p> <p>6 tenure as a PM until he separated?</p> <p>7 A Yes, sir. That was the development team he</p> <p>8 was on.</p> <p>9 Q Returning to the "Staffing," first bullet</p> <p>10 point Exhibit --</p> <p>11 A (Indicating.)</p> <p>12 Q -- 4, Page 2 of your deposition, the topic</p> <p>13 there says, "Resignations - Ashok Pai," and there is a</p> <p>14 parenthetical, "(10/31/14)."</p> <p>15 That was a topic that was brought to your</p> <p>16 attention in the DCIO PM weekly?</p> <p>17 A Yes, sir.</p> <p>18 Q Was the resignation of Ashok Pai that is</p> <p>19 bullet-pointed, was this brought to your attention</p> <p>20 before then?</p> <p>21 A No, this was the first notice we had that</p> <p>22 he had resigned.</p>

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6 (21 to 24)

1 Q Was that discussed during that week's 2 weekly meeting? 3 A Almost certainly, but I really can't 4 remember what the discussion was. It was four years 5 ago. 6 Q No recollection of anything that the Camber 7 PM said during that meeting about Ashok Pai? 8 A No, sir. 9 Q No recollection of anything the EOIR 10 representative said at that meeting about Ashok Pai? 11 A No, sir. I -- 12 Q Next bullet point, "Departures." 13 Mr. Khalil indicated "None." Is that correct? 14 A Correct. 15 Q All right. One person is mentioned in the 16 on boarding bullet point? 17 A Yes, sir. 18 Q Various upcoming absences, key personnel 19 are listed. Yes? 20 A Yes, sir. 21 Q No remarks about training? 22 A None.	21 1 1 clearance from OMB, but it takes about two years, so 2 what happens is once OMB opens an investigation, our 3 physical security office runs a background check on 4 them and a financial check on them and then issues a 5 waiver that allows us to on-board them until the 6 investigation at OMB finishes. 7 At which point then the contractor can 8 bring them on board. 9 Q Any substantive discussion of persons 10 proposed to be on-boarded by the PM? 11 By "substantive," I mean qualifications, 12 what they would do, pros and cons regarding the 13 individual. 14 A Typically, we would have a discussion about 15 the skill set. At any given time as you can see from 16 going through here, we would have a fair amount of 17 turnover on the contracts. So there would be three, 18 four, five positions open. 19 If you look at the Statement of Work, if we 20 don't have a fixed team size for any of the skill sets, 21 it can fluctuate depending on how much work we have for 22 the Cold Fusion team, the COGNOS team, the SharePoint
22 1 Q No "Risks/Issues" discussion? 2 A None on this meeting. 3 Q No populated bullet point for "Requests" or 4 "General"? 5 A No, sir. 6 Q Directing your attention -- what is the 7 next item on this list? 8 A That would be a 9 "Requirement/Hiring/on-Boarding Activities." 10 This would be where Atif would indicate new 11 people that he was either attempting to on-board or 12 proposing to on-board. 13 Q As a general matter, when Atif was 14 proposing to on-board someone and he would discuss it 15 at one of these meetings, what was the role that EOIR 16 had after hearing what his proposal to on-board someone 17 would be? 18 A As the COR, they put together a package of 19 security documents that I have to take over to the 20 physical security office to initiate a background 21 check, because they cannot on-board that person until 22 they -- technically, they are supposed to get a	22 1 DotNet team. 2 So the contractor and the government has a 3 lot of flexibility. The government can say, "We are 4 not going to be doing that much DotNet work. We can 5 shrink that team down and use the money" -- because 6 what we are really managing is the money -- "to 7 increase the size of the Cold Fusion team or in 8 reverse, we anticipate a lot of DotNet development over 9 the next couple of months to a year. We need to 10 increase the size of that team," and as long as the 11 money doesn't change, it really does not have to 12 involve the contracting officer. 13 Q Returning briefly to that topic, 14 "Recruitment." 15 A (Indicating.) 16 Q I'm sorry. I didn't mean to interrupt. 17 Was there -- 18 A No, that's okay. No, I was done. 19 Q It may be presumptuous of me, but I assume 20 you -- have ever testified before? 21 A No, sir. 22 Q In a deposition or in court?

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7 (25 to 28)

	25		27
1	A In court, yes.	1	I assume Hang is a name or surname of an
2	Q Testimony in a deposition is similar to	2	individual who had separated?
3	that in court except there is no judge here to rule on	3	A Yes, sir.
4	objections, if any are made.	4	Q What is backfill? What does that mean?
5	There is no jury here to listen to what you	5	A In this case since we still needed that
6	have to say, but the question-and-answer format is the	6	amount of testing capacity, we would have requested
7	same. You appear to understand that from our	7	that they bring in another tester to replace the one
8	discussion. Is that correct?	8	that had left.
9	Do you understand the lawyer asks the	9	Q Following that parenthetical, it says,
10	question and the witness answers?	10	"ISE2."
11	A Yes, sir.	11	What is that acronym? What is ISE
12	Q You also understand that if you can't hear	12	referring to?
13	the question, you need to let me know so that we can	13	A That would be the labor category. So the
14	have the reporter read it back?	14	ISE2 is, I believe, information systems engineer.
15	A Yes, sir.	15	Q So that was the labor category of the
16	Q And that I assume you have heard every	16	position to be backfilled after Hang.
17	question unless you tell me you didn't?	17	Is that the first name or surname there?
18	A Yes, sir.	18	A Honestly, I can't remember.
19	Q Same thing for understanding. I will	19	Q Backfill of the Hang position?
20	assume you understand a question unless you tell me you	20	A Yes.
21	21 did not understand it?	21	Q In that instance following "ISE2," it says,
22	A Yes, sir.	22	\$68.43" after a dollar sign.
	26		28
1	Q I wonder if I could have my last	1	What is the relationship of \$68.43 to the
2	substantive question before we went into the experience	2	ISE2?
3	of testifying?	3	A That would be the labor rate for that
4	(Thereupon, the requested testimony was	4	particular labor category.
5	read back as above recorded.)	5	Q Labor category and hourly rate. That is
6	BY MR. STERN:	6	the rate to be billed by the contractor to the
7	Q As populated on Page 2 of Exhibit 4 of your	7	government for this Hang backfill work?
8	deposition, you had mentioned EOIRs for your interest	8	A That would be correct.
9	as the COR or COTR on the money question?	9	Q Then underneath that there is a filled-in
10	A Yes.	10	bullet point, "Emita Choudhury selected ISE3, \$81.48,
11	Q With respect to recruitment, on-boarding or	11	16 six plus year of testing experience."
12	hiring activities on this project?	12	What is your understanding of what that
13	A Yes, sir.	13	meant on this DCIO PM?
14	Q The first one lists a -- it says, "Tester	14	A So the replacement had more experience,
15	Hang's backfill."	15	which would qualify for a higher labor category.
16	What was a "Tester"?	16	Q ISE3, the \$81.48 rate is a higher labor
17	A So this would be a software tester. So	17	category?
18	after the developers have finished coding up a	18	A Than an ISE2, yes.
19	particular change to the software program, a tester	19	Q Khalil justified that with the six plus
20	will go in there and verify that it works correctly.	20	years of testing experience in EOIR?
21	Q Then the parenthetical next to the word	21	A Correct.
22	tester is "Hangs Backfill."	22	Q The next bullet point, "DotNet DEV, Srin's

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8 (29 to 32)

	29		31
1	backfill. Interviewing candidates."	1	populated, "Opening req."
2	What is "DotNet DEV"? What does that mean?	2	What is that about?
3	A That would be somebody who is developing	3	A That would indicate that Camber was opening
4	applications using Microsoft's DotNet framework and the	4	a recruitment to go look for a new candidate.
5	language of choice we use is called C#.	5	Q No discussion remarks under the "EOIR
6	Q Srin, like Hang, is someone who had	6	Security" bullet point on this agenda item?
7	previously done that work and had left?	7	A No, sir.
8	A Correct.	8	Q Nor on "Programming"?
9	Q Status report underneath that is what?	9	A None.
10	A Are you referring to the "interviewing	10	Q Any discussion at the September 9th PM
11	candidates," sir?	11	weekly meeting about the opening req or Ashok's
12	Q Yes. That immediately follows --	12	backfill DotNet/SP DEV that we have been talking about?
13	A Yes.	13	A Probably. I don't remember the discussion,
14	Q -- the DotNet DEV, Srin's backfill bullet	14	but it would have been talked about because it's on the
15	point?	15	agenda.
16	A Yes.	16	Q Turning to the third page of this exhibit,
17	Q What is that topic about?	17	it's another e-mail from Atif to you and others. This
18	A That would indicate that Camber would	18	time it is about agenda for the weekly program review
19	currently be out interviewing and looking for a	19	for the following week, September 16, 2014?
20	replacement.	20	A Yes, sir.
21	Q What is the third bullet point in the DCIO	21	Q The page following is, in fact, the DCIO PM
22	for the September 9th weekly meeting. Page 2 of this	22	weekly agenda items for that meeting?
	30		32
1	exhibit?	1	A Yes, sir.
2	A You would be referring to the	2	Q That you received from Khalil?
3	"DotNet/SharePoint DEV Ashok's backfill"?	3	A Yes, sir.
4	Q Correct.	4	Q There is only one reference to Ashok on
5	A Yes.	5	this DCIO PM weekly, Page 3?
6	Q Compare and contrast the position	6	A That is correct.
7	"DotNet/SP DEV" to the DotNet DEV position for Srin's	7	Q Again, that is under the same
8	backfill.	8	"Recruiting/Hiring/On-boarding Activities"?
9	A DotNet/SharePoint would have the same skill	9	A Yes, sir.
10	sets as a DotNet developer with the addition of	10	Q The status remains "interviewing
11	knowledge of the SharePoint platform.	11	candidates"?
12	Q The DotNet/SP DEV, that was to backfill	12	A Yes, sir.
13	Ashok is that the way you pronounce it?	13	Q Do you recall any discussion of that at the
14	A I think it was Ashok or Ashok. I can't	14	weekly meeting --
15	remember 100 percent.	15	A Beyond the -- no. No. I do not.
16	Q It's Mr. Pai?	16	Q There is no reference -- in either of the
17	A Mr. Pai.	17	Ashok backfill bullet points that we have discussed so
18	Q That was to backfill Mr. Pai?	18	far, there is no reference to the labor category or
19	A Correct.	19	dollar rate for the Ashok backfill?
20	Q Whom you understood had resigned?	20	A No, sir.
21	A Yes, sir.	21	Q The September 16, 2014 DCIO that we are
22	Q And the bullet point underneath that is	22	talking about right now, what is the bullet point

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16 (61 to 64)

1 let me know when you are ready to discuss those 2 "Contract or other provisions." 3 A Okay. I am ready to answer your question, 4 sir. 5 Q Is Exhibit 7 to your deposition the 6 collection of contract or other provisions described in 7 Point Number four at the bottom of Page 2 of the 8 attorney's cover letter? 9 A Yes. That is the Statement of Work for 10 this contract. 11 Q Item Number 4 in the letter, which is the 12 same as an item in the attachment to the subpoena, 13 mentions Statement of Work regarding place of 14 performance, exceptions or changes thereto. 15 What provision or pages, if any, in this 16 collection -- 17 A Hang on a second. I believe that would be 18 Section 5.2 which outlines the place of performance. 19 It's on Page 67 of the Statement of Work. 20 Q The place of performance provision in 21 substance says that the principal places of performance 22 is EOIR located at and then the Falls Church address?	61	1 Q The second document is the proposal 2 beginning on, following on the footer, Page 79? 3 A Correct. 4 Q Then beginning with Avaya's solutions going 5 on from there. 6 Where is that? 7 A I believe the labor categories start on 8 Page 13 of the proposal. 9 Q And labor rates associated with those are 10 on Page 15? 11 A Yes, sir, they are. Those would be the 12 rates that were in effect for the base year -- oh, 13 excuse me. They also have -- they also have the option 14 years on here, too. 15 Q Those option years run through 16 November 30th of 2012? 17 A That would be correct, sir. 18 Q I think you had referenced earlier when we 19 were discussing some of the entries on agendas or ISEs, 20 I believe you described them as Information Systems 21 Engineers, ISE? 22 A ISE is systems engineers. ISA would be	63
1 A Correct. That would be EOIR headquarters. 2 Q Or the contractor's facility located at 3 TBD, to be determined? 4 A Correct. 5 Q Then 5.2.1 lists EOIR's current immigration 6 courts? 7 A Yes, sir. 8 Q It looks like there is, what, 59 of those? 9 A At that time, yes. 10 Q It would vary from time to time? 11 A Correct. 12 Q Is there any provision in this exhibit 13 regarding exceptions or changes to place of 14 performance? 15 A No, sir. 16 Q I believe you had mentioned or referred 17 when we were discussing the ISA and ISE labor 18 classifications that there was some reference in the 19 contract or other provisions to that? 20 A Yes, sir, there is. That would be in 21 Avaya's proposal, which is the second document you have 22 here.	62	1 systems analysts. 2 Q On the labor rates, Page 15, I believe of 3 the Avaya proposal document -- 4 A (Indicating.) 5 Q -- there is Information System Analyst 1, 2 6 and 3 listed? 7 A Yes, sir. 8 Q And there are four grades of ISEs, 9 Information Systems Engineers? 10 A Yes, sir. 11 Q In the labor category sheet for minimum 12 general experience, functional responsibility and 13 minimum education, those are depicted starting on Page 14 13 of the Avaya proposal? 15 A Yes, sir, they are. 16 Q And row number four, Information Systems 17 Analyst 3, row number five, Information Systems Analyst 18 2, and row number six, Information Systems Analyst 1 19 are all depicted on Page 13? 20 A Correct, sir. 21 Q The agenda items characterize the person 22 selected to backfill Ashok's position as ISA3. Yes?	64

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17 (65 to 68)

	65		67
1	A Let me verify.		and we will talk about that briefly.
2	Q It's referenced as Saritha.	2	A Okay.
3	A Yeah. I just want to make sure I get it	3	Q Have you seen the e-mail depicted in this
4	right. ISA3 and ISE3 are easy to confuse.	4	exhibit before I handed it to you today?
5	Q Sure.	5	A As part of this proceeding, no.
6	A Yes, sir. It was an ISA3.	6	Q All right. It is, though, an e-mail that
7	Q Returning to the attorney's cover letter,	7	you sent to Atif with a copy to your alternate COR --
8	Exhibit 2 to your deposition on Page 2, Exhibit 7, it	8	A David Fruehwald.
9	was responsive to Item Number 4, the contract or other	9	Q -- David Fruehwald on the "Subject:
10	provisions regarding place of performance?	10	Replacement of Ashok Pai on Wednesday, October 1, 2014"
11	A Yes.	11	at approximately 9:41 a.m?
12	Q And is it also responsive to Item 5,	12	A Yes, sir.
13	contract or other provisions regarding labor categories	13	Q And your salutation on it says, "Atif"?
14	applicable to the work performed by Ashok Pai?	14	A Yes, sir.
15	A Yes, sir, it is.	15	Q That is Atif Khalil. Yes?
16	Q Including ISA3 and ISA2?	16	A Yes, sir.
17	A Yes, sir.	17	Q PM for Camber at that time?
18	Q Directing your attention to a document	18	A Correct, sir.
19	labeled Exhibit 3, "Schedule B, Declaration Certifying	19	Q "Please proceed with replacement of Ashok
20	Authenticity of Records," it's a two-page document on	20	Pai from the DotNet team at the government's request,"
21	two sides on one sheet of paper.	21	period?
22	Take a look at it, and we will talk about	22	A (Indicating.)
	66		68
1	it briefly.	1	Q Yes?
2	A Yes, sir.	2	A Yes, sir.
3	Q That is your signature on the bottom of the	3	Q All right. Had Atif discussed with you
4	second page?	4	making this request?
5	A Yes, sir, it is.	5	A I really don't recall. Maybe.
6	Q All right. Declaring that you have	6	Q Do you recall why you wrote this e-mail on
7	produced all records in your custody and control	7	that day?
8	responsive to Plaintiff's request?	8	A Not 100 percent. I believe they requested
9	A Yes, sir.	9	confirmation that we were going to backfill the
10	Q The records were made at or near the time	10	10 position.
11	of the occurrence of the matters set forth and so	11	Q "They" meaning Camber?
12	forth?	12	A That would be Camber, yes, sir.
13	A Yes, sir.	13	Q You had previously described in general
14	Q Dated March 23, 2018. Yes?	14	terms the documentary procedure that would have to be
15	A Yes, sir.	15	followed at EOIR to request removal of an employee.
16	Q Last Friday?	16	A Correct, sir.
17	A Last Friday.	17	Q This exhibit is not an example of a request
18	Q Next I'm going to direct your attention to	18	to remove an employee?
19	a single-page document labeled Exhibit 5 Myatt with an	19	A No, sir. This was October 1st after we had
20	EEOC production number 32 in the lower right-hand	20	already been informed that Ashok had resigned.
21	corner.	21	Q Do you know whose idea it was to have this
22	Let me know when you are ready to discuss,	22	written?

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19 (73 to 76)

73 1 reviewed prior to this meeting. Technically, the
2 budget sheets, which breaks out individual labor
3 categories for each individual.

4 Q When did you review those invoices or
5 budget sheets?

6 A Prior to sending them to satisfy the
7 subpoenas.

8 Q Prior to sending them internally within
9 DOJ?

10 A Yes, sir.

11 Q All right. So you don't know whether those
12 were ultimately then produced under the subpoena. Is
13 that right?

14 A That would be correct, sir.

15 Q It's up to -- DOJ Legal ultimately handles
16 the production of those documents in response to a
17 subpoena. Is that right?

18 A Yes, sir.

19 Q ISA P -- I'm sorry. An ISA3 bills less to
20 the government than a program manager.

21 Does that look right?

22 A Hang on. Let me check. Yes, sir. That

74 1 would be correct.

2 Q So would you expect an employee billing
3 less -- at a less hourly rate to be paid less than a
4 program manager?

5 A That sounds reasonable, but you have no
6 idea what Camber pays their employees. I just know
7 what they bill the government.

8 Q Did Mr. Pai's duties primarily focus on
9 performing SharePoint architecture work?

10 MR. STERN: Objection to the form of the
11 question.

12 BY MR. ORTBALS:

13 Q You can answer the question, sir?

14 MS. COLEMAN: Do you understand it?

15 A Could you clarify that just a little bit?

16 You mean his duties on this particular contract and
17 project working for the government?

18 BY MR. ORTBALS:

19 Q Correct.

20 A He was engaged as a software developer
21 working on both DotNet and SharePoint applications.

22 Q Did he have a particular focus between

75 1 SharePoint or DotNet?

2 A More than on the C# DotNet coding but the
3 app he was working on was sitting on top of a
4 SharePoint platform.

5 Q Within the course of the program with EOIR,
6 did the app being developed ever change in focus from
7 primarily SharePoint-based to more DotNet-based?

8 MR. STERN: Objection to the form.

9 A Yes, but I can't remember exactly when that
10 shift happened.

11 BY MR. ORTBALS:

12 Q During the course of that shift, did you
13 have discussions with Atif Khalil about the need for
14 more DotNet experience as opposed to SharePoint
15 experience?

16 A I don't remember a specific discussion, but
17 it is highly probable that we did.

18 Q It wouldn't be unusual for you and Atif to
19 have discussion about the changing needs of the makeup
20 of the team?

21 A Requirements discussions are ongoing, yes.

22 Q As the requirements change, the needs of

76 1 the project change?

2 A Correct.

3 Q Would it be unusual in any way for the
4 contractor, in this case Atif Khalil, to make
5 recommendations to you as to how the contractor felt it
6 could best fulfill the needs of the projects?

7 MR. STERN: Objection to the form of the
8 question, compound.

9 A Could you narrow that down a little bit?

10 BY MR. ORTBALS:

11 Q Well, I mean, let's stick with the idea of
12 the focus of the project kind of shifting from
13 SharePoint to DotNet.

14 Would it be unusual in any way for Atif to
15 bring you proposed recommendations about how to help
16 make that shift happen?

17 A By "recommendations," do you mean in the
18 form of staffing changes?

19 Q Correct. Or skill sets needed for the
20 makeup of the team in relation to skill set?

21 MR. STERN: Objection as to form.

22 A That would -- that would happen

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21 (81 to 84)

<p>81 1 the status reports.</p> <p>2 Q Well, there was a status report on</p> <p>3 "Risks/Issues" regarding Ashok Pai's departure. Right?</p> <p>4 A Yes, sir, there was.</p> <p>5 Q And that would be the September 30, 2014</p> <p>6 status report?</p> <p>7 A Yes, sir.</p> <p>8 Q I believe you testified earlier that you</p> <p>9 believed that that "Risks/Issue" discussion was about</p> <p>10 the Attorney Discipline Project that Ashok was working</p> <p>11 on. Is that correct?</p> <p>12 A Correct.</p> <p>13 Q Do you have an actual recollection of that</p> <p>14 discussion?</p> <p>15 MR. STERN: Objection as to form. You may</p> <p>16 answer the question.</p> <p>17 A Not really. I'm piecing it together from</p> <p>18 what that particular developer was working on at the</p> <p>19 time.</p> <p>20 BY MR. ORTBALS:</p> <p>21 Q So you know he was working on the Attorney</p> <p>22 Discipline Project around the time of his resignation?</p>	<p>83 1 A I do not know.</p> <p>2 BY MR. ORTBALS:</p> <p>3 Q And you don't know because you don't know</p> <p>4 what was discussed in that regard?</p> <p>5 MR. STERN: Objection as to form.</p> <p>6 A Once again, it's a meeting from four years</p> <p>7 ago. I do not recall the exact conversation.</p> <p>8 BY MR. ORTBALS:</p> <p>9 Q I think you mentioned earlier that there</p> <p>10 were three teams within the EOIR project.</p> <p>11 Is that correct?</p> <p>12 A Technically, there were more than that.</p> <p>13 There were three development teams.</p> <p>14 Q Three development teams that Camber was</p> <p>15 responsible for?</p> <p>16 A Correct.</p> <p>17 Q And then you mentioned one was</p> <p>18 DotNet/SharePoint. Is that correct?</p> <p>19 A Yes.</p> <p>20 Q The other one was Cold Fusion?</p> <p>21 A Correct.</p> <p>22 Q What was the other one?</p>
<p>82 1 A Correct.</p> <p>2 Q You don't, however, know what the specific</p> <p>3 risk issue was that was discussed with you on September</p> <p>4 the 30th of 2014?</p> <p>5 A I do not remember what was discussed at</p> <p>6 that meeting, no, sir.</p> <p>7 Q If Atif Khalil testified that he discussed</p> <p>8 with you that Ashok was trying to change his plans and</p> <p>9 not resign, you don't have any memory of that one way</p> <p>10 or another?</p> <p>11 MR. STERN: Objection as to form.</p> <p>12 A I do not recall any conversation of that</p> <p>13 nature, sir.</p> <p>14 BY MR. ORTBALS:</p> <p>15 Q All right. Are you saying that it didn't</p> <p>16 happen?</p> <p>17 A I'm saying I don't recall it, and I don't</p> <p>18 have a record of it.</p> <p>19 Q But it's possible that that was the risk</p> <p>20 issue that was discussed in this September 30, 2014</p> <p>21 meeting?</p> <p>22 MR. STERN: Objection as to form.</p>	<p>84 1 A COGNOS.</p> <p>2 Q COGNOS. All right.</p> <p>3 Ashok was on the DotNet/SharePoint team?</p> <p>4 A Correct.</p> <p>5 Q So when you sent the e-mail that is</p> <p>6 Exhibit 5 about proceeding with the replacement of</p> <p>7 Ashok Pai from the DotNet team at the government's</p> <p>8 request, that is a reference to the DotNet/SharePoint</p> <p>9 team. Is that correct?</p> <p>10 A That would be correct.</p> <p>11 Q They are not two separate teams?</p> <p>12 A They are a combined team.</p> <p>13 Q All right.</p> <p>14 A Two skill sets, but many of the people on</p> <p>15 there have both skill sets.</p> <p>16 Q So from your view, there is no distinction</p> <p>17 when you are requesting a replacement from the DotNet</p> <p>18 team versus DotNet/SharePoint?</p> <p>19 A Yes. We are looking for a particular skill</p> <p>20 set there.</p> <p>21 Q Was it your expectation after sending the</p> <p>22 e-mail that Mr. Pai was not going to remain on the</p>

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22 (85 to 88)

	85		87
1 DotNet team?		1 impact the contract, including dollar - dollar level	
2 MR. STERN: Objection as to form.		2 expenditures so that we don't overbarn or under burn.	
3 A Well, we had been informed he had resigned,		3 Q So if Camber was already in the process of	
4 so I guess the answer would be yes.		4 backfilling Mr. Pai's position and they were keeping	
5 BY MR. ORTBALS:		5 you apprised of that, what was the need to send the	
6 Q I mean, you did not expect -- you did not		6 e-mail on October 1st directing the replacement?	
7 expect to have him replaced if he was going to remain		7 MR. STERN: Objection as to form.	
8 there. Is that right?		8 A I'm not really sure. I just -- I do not	
9 A I'm not sure what the question is there,		9 remember the reason for sending the e-mail.	
10 sir.		10 BY MR. ORTBALS:	
11 Q Well, I guess because I'm still not clear		11 Q Is that an e-mail that you would have sent	
12 on -- the gentleman had already resigned. Is that		12 in the normal process of backfilling somebody's	
13 correct?		13 position?	
14 MR. STERN: Objection as to form.		14 A Occasionally, yes.	
15 BY MR. ORTBALS:		15 Q What have been the reasons in the past that	
16 Q You had already been informed --		16 you have sent an e-mail similar to Exhibit 5 to the	
17 A We had been informed on September 9th that		17 contractor?	
18 he had handed in his resignation.		18 A Usually, it would be the PM requesting that	
19 Q You had also been informed that Camber was		19 he wanted something indicating that we still wanted	
20 opening a requisition and starting the backfill		20 that position -- that we still had the requirement.	
21 process. Is that correct?		21 Q When you sent the e-mail, Exhibit 5, were	
22 A That is correct.		22 you intending to discriminate against Mr. Pai based on	
	86		88
1 Q So from being informed of those two things,		1 his age in any way?	
2 you had already been informed that Ashok Pai's		2 A No, sir.	
3 replacement was underway. Is that correct?		3 Q When you sent the e-mail, Exhibit 5, were	
4 A We had been informed that Camber was		4 you intending on discriminating against Mr. Pai based	
5 looking for a replacement. Correct.		5 on his son's disability?	
6 Q In other words, this was not a scenario		6 A No, sir.	
7 where a decision had been made to downsize the position		7 Q Did you know anything about Mr. Pai's son?	
8 or not backfill it?		8 A Not a lot. We had a request from Atif to	
9 MR. STERN: Objection as to form.		9 allow Mr. Pai to telework once or twice a week in order	
10 A I'm not sure what you mean by "downsizing."		10 to accommodate a family medical issue, and we approved	
11 Can you elaborate?		11 that request.	
12 BY MR. ORTBALS:		12 Q When was that request made?	
13 Q The position had not been eliminated from		13 A I don't have an exact record of it. It	
14 the program. It was going to be backfilled?		14 would have been prior to his resignation in September.	
15 A Yes. We still had a requirement for DotNet		15 So sometime that summer, probably.	
16 SharePoint development.		16 Q Sometime in the summer of 2014?	
17 Q All right. I think, as we have seen today,		17 A Correct.	
18 generally speaking, these weekly meeting agenda items		18 Q Is your understanding that that was made	
19 are where Camber informed you as to progress on		19 with respect to Mr. Pai's son's condition?	
20 staffing and backfilling open positions.		20 A Yes, sir.	
21 Is that correct?		21 Q Not his wife's medical condition?	
22 A Typically, along with other things that		22 A I was not aware his wife had a medical	

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23 (89 to 92)

<p>1 I condition.</p> <p>2 Q Who brought -- and it was Atif that brought 3 the request to allow him, Mr. Pai, to telework.</p> <p>4 Is that correct?</p> <p>5 A Correct.</p> <p>6 Q And the telework, that was viewed from you 7 as accommodation. Is that right?</p> <p>8 MR. STERN: Objection as to form.</p> <p>9 BY MR. ORTBALS:</p> <p>10 Q Let me ask it this way: The folks from 11 Camber that were working on the EOIR project were 12 working in person in Falls Church?</p> <p>13 A On site at Falls Church, correct.</p> <p>14 Q They generally were not permitted to 15 telework?</p> <p>16 A Typically, no. But we have done telework 17 arrangements for specific cases. We had a DVA that 18 broke her ankle and couldn't drive for a couple of 19 months, so we allowed her to work from home.</p> <p>20 We had -- we had done it for a couple of 21 ladies that were pregnant, during their pregnancies.</p> <p>22 Q So you provided those as accommodations to</p>	<p style="text-align: center;">89</p> <p>1 A Correct.</p> <p>2 Q The listing of the various immigration 3 courts' locations throughout the United States is not a 4 statement about the place of work?</p> <p>5 A For the most part, no. If you read the 6 contract carefully, originally when Avaya was awarded a 7 contract, they were provided a system called Digital 8 Audio Recording, which was actually installed at the 9 different courts. So it was possible some of the Avaya 10 people would have to go out there and troubleshoot a 11 problem with it.</p> <p>12 That work in a later mod was transitioned 13 from Avaya to another contractor.</p> <p>14 Q That was before the Camber acquisition?</p> <p>15 A Yes, I believe so. I would have to look up 16 the specific mod, but that is why those courts are 17 listed under place of performance along with 18 headquarters.</p> <p>19 Q And the folks from Camber under the EOIR 20 project were not working in those different 21 courthouses?</p> <p>22 A No, they were not.</p>
<p>1 allow them to continue working?</p> <p>2 MR. STERN: Objection as to form.</p> <p>3 A Contingent upon them still being able to 4 perform their duties as required, yes.</p> <p>5 BY MR. ORTBALS:</p> <p>6 Q When their medical conditions or their 7 pregnancies were completed, they came back and 8 physically worked at EOIR. Is that correct?</p> <p>9 A Yes, sir.</p> <p>10 Q So you have not approved a permanent 11 telework position on the EOIR project?</p> <p>12 A No, sir.</p> <p>13 Q And the expectation is that absent some 14 type of accommodation that is granted, the workers on 15 the project are going to be physically present at the 16 office in Falls Church, Virginia?</p> <p>17 MR. STERN: Objection as to form.</p> <p>18 A That would be the statement in the contract 19 under the place of performance.</p> <p>20 BY MR. ORTBALS:</p> <p>21 Q The place of performance is Falls Church, 22 Virginia in the contract?</p>	<p style="text-align: center;">90</p> <p>1 Q All right.</p> <p>2 A Not at that point in time.</p> <p>3 Q Do you know how long the telework 4 accommodation for Mr. Pai was approved?</p> <p>5 A Not exactly, no.</p> <p>6 Q Was it a matter of months or weeks?</p> <p>7 A I believe months. It was a couple of 8 months he was doing -- he was on telework and it was 9 one or two days a week. It was not continuous 10 telework.</p> <p>11 Q Was it your understanding that those were 12 times when he was traveling back to California?</p> <p>13 A I did not realize he lived in California.</p> <p>14 Q All right. But you knew he needed to be 15 gone for something to do with his son's medical 16 condition?</p> <p>17 A We were told his son had some sort of 18 medical issue that he needed to be there to take care 19 of.</p> <p>20 Q And that was Mr. Khalil that requested that 21 accommodation?</p> <p>22 A Correct.</p>

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24 (93 to 96)

	93		95
1 Q	Why did that accommodation end?		1 status reports, every couple of months there tends to
2 A	I don't actually remember us ending it, now		2 be somebody on-boarding and somebody off-boarding.
3	that you mention it. I think it was still in place at		3 Q And updates about the staffing of the
4	the time he resigned.		4 project were routinely made to you. Is that correct?
5 Q	Was that accommodation discussed at these		5 A Yes, sir.
6	weekly meetings between you and --		6 Q So there was nothing in particular about
7 A	I don't remember exactly when we discussed		7 Mr. Pai's situation that was unusual in your mind?
8	it, but it would have been verbally approved because I		8 A It didn't stand out, no.
9	don't have a written record of it.		9 Q Had you ever heard Mr. Khalil say anything
10 Q	What do you understand the nature of		10 disparaging about Mr. Pai's age?
11	Mr. Pai's son's medical condition to be?		11 A No, sir.
12 A	I have no idea.		12 Q Have you ever heard Mr. Khalil say anything
13 Q	So it sounds like you were just made aware		13 disparaging about Mr. Pai's son's disability?
14	that he had some type of medical issue?		14 A No, sir.
15 A	Correct, sir.		15 Q Had you ever heard any other Camber
16 Q	Do you remember anything else that		16 employee make a disparaging comment about Mr. Pai's
17	Mr. Khalil told you about the circumstances surrounding		17 age?
18	Mr. Pai's need for telework?		18 A No, sir.
19 A	No, sir, it was a pretty straightforward		19 Q Had you ever heard any other Camber
20	request.		20 employee make a disparaging comment about Mr. Pai's
21 Q	Could Camber have approved Mr. Pai to		21 son's disability?
22	permanently work for EOIR from California?		22 A No, sir.
	94		96
1	MR. STERN: Objection as to form.		1 Q Are there any other accommodations that you
2 A	I don't think so. I would have had to have		2 were asked to make for Mr. Pai that you recall?
3	taken that one up with the contracting officer.		3 A None that I remember. Just the telework.
4	BY MR. ORTBALS:		4 Q Did you ever express any concerns about
5 Q	And is that because it would have involved		5 Mr. Pai's attendance to Camber?
6	changing the place of performance?		6 A No, sir.
7 A	Possibly. That would be what I would have		7 Q Did you ever have any concerns that Mr. Pai
8	to discuss with the contracting officer.		8 was being discriminated against because of his age or
9 Q	But it sounds like it is certainly not a		9 his son's disability?
10	decision that Camber could make on its own?		10 A No, sir, I did not.
11 MR. STERN: Objection as to form.			11 Q I believe earlier when Mr. Stern asked you
12 A	I would have required network access for		12 about whether EOIR had changed their requirements per
13	somebody to work remote. The network access would have		13 Mr. Pai's position, you thought for a moment, and then
14	to be approved by a government employee in order for		14 your response was "the short answer is no."
15	them to access our systems.		15 Is that right?
16 So for any hands-on access, they would need			16 A Yes, sir.
17	me to approve their DOJ Connect account.		17 Q What did you mean by "the short answer is
18 Q	When Mr. Khalil informed you about Mr. Pai		18 no"?
19	resigning, that wasn't unusual in any way.		19 A We don't set a labor category on a
20	Is that correct?		20 position-by-position basis as the government.
21 A	There is generally a fair amount of		21 What we do is, we tell the contractor,
22	turnover on any contract. So as you can see from the		22 "Here is the work we are planning to do."